

**STATE OF LOUISIANA
OFFICE OF FINANCIAL INSTITUTIONS
BATON ROUGE, LOUISIANA**

**APPLICATION REQUIREMENTS FOR LICENSURE UNDER THE LOUISIANA
SALE OF CHECKS AND MONEY TRANSMISSION ACT**

All of the following information **must** be submitted before this application will be accepted for filing and processing:

- A check or money order payable to the Office of Financial Institutions in the amount of \$300 for the Sale of Checks **Investigation** Fee, plus \$25 for each additional location up to a maximum of \$3,000. R.S. 6:1037A(1). **All fees are nonrefundable.**
- Completed, signed, and notarized uniform application form.
- A Surety Bond **Attachment [E]** of at least \$25,000, up to a maximum of \$500,000 or pledged securities **Attachment [F]** in a like amount. (LSA-R.S. 6:1037) The amount is based on one-half the amount of checks outstanding or one percent of annual volume of money transmitted rounded to the nearest thousand. In no event shall the bond be less than \$25,000.
- Agent for Service of Process and Acknowledgement, signed and notarized. **Attachment [G]**
- A Business Plan which includes a 3 year financial proforma, the anticipated volume of checks to be sold and/or money to be transmitted for the calendar year, and the anticipated number of selling or transmitting locations. Note: A list of permissible investments in an amount equal to the total outstanding money orders shown on the one-year business plan should be reflected in the business plan, as well as the maintenance of the \$100,000 net worth requirement. (LSA-R.S. 6:1035)
- Applicant financial statements certified to as correct by an owner, principal, officer, or director for preceding 3 years and year in which the application is submitted. The financial statements must provide evidence that the applicant has a \$100,000 net worth computed in accordance with GAAP. (LSA-R.S. 6:1035)
- Attach a list of agents and other locations in Louisiana at/or through which applicant engages or proposes to engage in the business of selling or issuing checks, money orders or other instruments as provided under the provision of the Sale of Checks and Money Transmission Act, R.S. 6:1031 et seq. (attach additional sheet(s), if needed)

Contact person regarding this application: Sandra Ledoux (225) 922-0638.

Applications may be mailed or hand delivered to:

**Office of Financial Institutions
8660 United Plaza Boulevard – 2nd Floor
Baton Rouge, LA 70809**

**Office of Financial Institutions
P. O. Box 94095
Baton Rouge, LA 70804-9095**

INSTRUCTIONS

UNIFORM APPLICATION FOR LICENSURE/REGISTRATION

This application will not be considered complete until this Office receives all fees and required information. Failure to provide all documentation will result in increased processing time and possible denial of the application. All blanks must be completed. If N/A, so state.

- No. 1 Full legal name of entity. The only instance, in which the "applicant" may be a natural person, is if the applicant is a sole proprietorship. Otherwise, the "applicant" is a separate legal entity that will be conducting business. The name inserted on this line must be **identical** to the name filed with the Secretary of State from the state in which you are applying.
- No. 2 If applicant operates under a trade or assumed name, the name inserted on this line must be **identical** to the name that appears on the certificate of registration filed with the proper state authority in which the applicant is applying (e.g. Secretary of State).
- No. 3 Street address of the office location that will appear on the face of the license.
- No. 4 The mailing address of the applicant, if different from No. 3. If same, so state.
- No. 5 Main office phone number, fax number, web site and/or e-mail address.
- No. 6 Check the type of organization. Attach copies of Certificate of Authority, Articles of Incorporation or Organization, Partnership Agreement and Bylaws, whichever is applicable.
- No. 7 Insert the state in which the applicant was originally registered and date that the applicant was incorporated, organized or formed.
- No. 8 Out-of-state applicants must submit documentation evidencing that your company/entity is authorized to do business in the state in which you are applying. (Registration Certificate from the proper authority such as the Secretary of State)
- No. 9 Self-explanatory
- No. 10 Self-explanatory
- No. 11 Complete name, address, and phone number of the Registered Agent for Service of Process. (Sole Proprietor's put "N/A.") Registered Agent must be a person located in the state in which you are applying.
- No. 12 Self-explanatory
- No. 13 Self-explanatory
- No. 14 Self-explanatory
- No. 15 List the states in which the applicant/registrant is conducting or has conducted similar mortgage business.
- No. 16 List the name, title, complete address, and percentage of ownership of each director, manager, member, partner and all 10% or greater equity owners. Additional sheets may be copied and attached, if necessary. For purposes of this application, "equity owners" includes stockholders, members, partners, or limited partners that own equity in the business seeking licensure. If applicant is a subsidiary, list requested information for parent company.
- No. 17 Self-explanatory
- No. 18 Information concerning the parent company, if the applicant is a subsidiary and an organizational chart.

ALL ATTACHMENTS MUST BE SUBMITTED

REVISED 08/10/2004	UNIFORM APPLICATION FOR LICENSURE/REGISTRATION			TYPE OF LICENSE APPLIED FOR:
1.	Full legal name of applicant <i>(attach secretary of state certificate from the state in which you are applying)</i> :			
2.	Trade name, d/b/a, or assumed name of applicant, if applicable: <i>(attach registration documentation/certificate)</i>			Fed. Tax I.D.#:
3.	Principal office street address:			
	City:	State:	Zip Code:	
4.	Mailing address (street or post office box):			
	City:	State:	Zip Code:	
5.	Business phone number:		Business fax number:	
	E-mail address:		Web site: www.	
6.	Type Of Organization: <input type="checkbox"/> Corporation <input type="checkbox"/> Limited Liability Company (LLC)		<input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> General Partnership	<input type="checkbox"/> Limited Liability Partnership <input type="checkbox"/> Other (Explain)
	State/Commonwealth of Incorporation:		Date of Incorporation/Organization:	
8.	If a foreign corporation or other type of legal entity, state the date that the entity filed with the proper state authority in which the applicant is applying. (e.g. secretary of state), if so required:			
9.	Physical address of location at which the official books and records of the applicant are kept:			
	City:	State:	Zip Code:	Phone No:
10.	Does applicant engage in <u>any activity</u> through electronic or automated mediums, such as the internet? () If yes, attach description of activity and web site address () No			
11.	Registered agent for service of legal process: <i>(must be located in state/commonwealth in which you are applying)</i>			
	Name:			
	Mailing Address:			
	City:	State:	Zip:	Phone Number:
12.	Person authorized to answer questions pertaining to this application:			
	Name:			
	Address:			
	City:	State:	Zip Code:	Phone No:
	E-Mail Address:		Fax No:	

13.	Person authorized to answer regulatory compliance issues:				
	Name:				
	Address:				
	City:	State:	Zip Code:	Phone No:	
	E-Mail Address:		Fax No:		
14.	Person authorized to answer consumer complaints:				
	Name:				
	Address:				
	City:	State:	Zip Code:	Phone No:	
	E-Mail Address:		Fax No:		
15.	List all states in which applicant is conducting or has conducted business related to this application: (attach list if necessary)				
	State or states in which business is/was conducted	Type of business conducted	Names under which applicant <u>is</u> or <u>has</u> operated	Original license date	Active or Inactive
16.	List all principal officers and title held, directors, partners, and members. (attach addendum if necessary)				
Name & Title		Principal Office Address		% Ownership	
Name & Title		Principal Office Address		% Ownership	
Name & Title		Principal Office Address		% Ownership	
Name & Title		Principal Office Address		% Ownership	
Name & Title		Principal Office Address		% Ownership	
List all persons that have a 10% or greater equity interest not listed above.					
Name		Principal Office Address		% Ownership	
Name		Principal Office Address		% Ownership	
Name		Principal Office Address		% Ownership	

17.	Read the following questions carefully. If the answer is yes to any of the questions, attach a full written explanation. Include names, dates, court name and address, case number, judgement amounts.		
A.	Are there any civil or criminal proceedings pending against the applicant <u>or</u> civil or criminal convictions, plea of nolo contendere or plea to lesser charge entered against the applicant that involve theft, fraud, dishonest dealings or moral turpitude?	() Yes, attach explanation () No	
B.	Has the applicant ever been the subject of a bankruptcy, assignment for the benefit of creditors, receivership, conservatorship, or any similar proceeding?	() Yes, attach explanation () No	
C.	Has any other state or federal government agency denied the applicant a license?	() Yes, attach explanation () No	
D.	Is/has the applicant been the subject of any administrative action or enforcement proceeding by any state or federal government agency involving fines, penalties, or the revocation or suspension of any business license or permit?	() Yes, attach explanation () No	
18.	Is applicant a subsidiary?	<input type="checkbox"/> Yes	<input type="checkbox"/> No
	Parent company name:		
	Mailing address:		
	City:	State:	Zip Code:
	If applicant's parent company is a corporation, state where and when incorporated.		
	State Incorporated:	Date Incorporated:	
IN ADDITION TO ALL OF THE ABOVE, APPLICANT MUST SUBMIT THE FOLLOWING ATTACHMENTS:			
A.	Certificate of Resolution form stating who can sign official documents on behalf of the applicant.(See Attachment A)		
B.	Biographical / Authority Sheet completed and notarized for everyone listed in #16.(See Attachment B)		
C.	A current 10-year employment/experience form for everyone listed in #16 and sole proprietors.(See Attachment C)		
D.	Residence addresses for the last 10 years for everyone listed in #16.(See Attachment D)		
E.	Provide copies of the following, whichever are applicable: <ol style="list-style-type: none"> 1. Certificate of Good Standing from the Secretary of State or other state authority in which the applicant was originally incorporated or organized. 2. If applicant is a corporation, provide a copy of Articles of Incorporation, including amendments. 3. If applicant is a Limited Liability Company (LLC) provide a copy of the Articles of Organization and operating agreement. 4. If applicant is a general partnership or a Limited Liability Partnership (LLP) provide a copy of the Partnership Agreement. 		

APPLICATION AFFIDAVIT

Signed this _____ day of _____ 20_____.

Name of Company

By:

Signature of Authorized Person

Print Name and Title

STATE OR COMMONWEALTH OF _____
COUNTY /PARISH OF _____

_____ personally came and appeared before me, the undersigned
(authorized person above)
notary, and declared under oath that she/he is the _____ of
(Title)
_____, that she/he is authorized to sign and submit the attached
(Name of Company)
application and that all statements and representations made therein are true and correct to the best of
his/her knowledge, information and belief.

Signature of the authorized person

Sworn to and subscribed before me on this the _____ day of _____ 20_____.

Notary Public

Print Name of Notary Public

(Seal)

My Commission Expires: _____

CERTIFICATE OF RESOLUTION

This form must be completed by all applicants, except sole proprietors, and must include the applicant's full name, including trade name(s), D/B/A name(s), or assumed name(s), if applicable.

This is to certify that at a ☐ Regular or ☐ Special meeting of the ☐ Board of Directors/or ☐ Members/ or ☐ Partners of _____
Name of applicant/company
organized under the laws of the State / Commonwealth of _____ held at
_____, _____, _____
Street address City State Zip Code
on the _____ day of _____, 20____, the following resolution was

duly and legally presented and adopted, to wit:

It being the desire and purpose of _____
Name of applicant/company
to be licensed or registered, BE IT RESOLVED, that _____
Name of authorized representative
who is the _____ of this ☐ limited liability company, ☐ corporation,
Title of authorized person
☐ limited partnership, or ☐ general partnership is, in his/her official capacity, hereby authorized
and directed to prepare, execute, verify, and present to the proper state authorities, for filing, a written
application for licensure or registration. Further, he/she is hereby authorized and empowered to make, sign
and execute all documents pertaining to the application and to perform every act whatsoever as required to
file the application on behalf of _____
Name of applicant/company

AUTHORIZED SIGNATURE

(If corporation, this form must be signed by Secretary)

Print Name

TITLE : _____

DATE: _____

Attachment [B]

AUTHORITY TO OBTAIN INFORMATION FROM OUTSIDE SOURCES	
THIS FORM MUST BE SUBMITTED FOR EACH PERSON LISTED IN QUESTION # 16	
Name:	Social Security #:
Home Address, City, State, Zip Code:	
Date of Birth:	Home Telephone No:
Read the following questions carefully. If the answer is "yes" to any of the questions, attach a full written explanation. Include names, dates, court name and address, case number, judgement amounts.	
Have any civil judgments been entered against you during the past 10 years?	() Yes, attach explanation () No
Are there any civil proceedings pending against you or civil judgements entered against you which involve fraud or dishonesty?	() Yes, attach explanation () No
Have you been convicted of or entered a plea of Nolo Contendere to a felony?	() Yes, attach explanation () No
Have you ever been convicted of or entered a plea of Nolo Contendere to any misdemeanor involving theft, fraud, or dishonesty?	() Yes, attach explanation () No
Have you been the subject of a bankruptcy, assignment for the benefit of creditors, receivership, conservatorship, or any similar proceeding?	() Yes, attach explanation () No
Have you been subject to any enforcement proceedings by any State or Federal government agency involving the revocation or suspension of any business, fines or penalties?	() Yes, attach explanation () No
Have you been discharged for cause or been requested to resign from any employment position?	() Yes, attach explanation () No
I hereby authorize the licensing authority, to make inquiries from any financial institution, credit bureau or law enforcement agency for the purpose of determining his/her financial responsibility, character and fitness in connection with an application for a license or registration.	
I hereby certify that the information on this form is, to the best of my knowledge, complete and accurate.	
_____ Signature	
SUBSCRIBED BEFORE ME ON THIS _____ day of _____, 20 _____.	
AT: _____, _____ (CITY) (STATE or COMMONWEALTH)	
PRINT NAME OF NOTARY PUBLIC:	SIGNATURE OF NOTARY PUBLIC:

Attachment [C]**EMPLOYMENT/EXPERIENCE HISTORY FOR THE LAST 10 YRS**

Each sole proprietor, officer, director, partner, member, manager and 10% or greater equity owner of applicant must fill out this form. You may submit your own resume' as long as it includes the information listed below. Explain any gaps in work history. (*Attach additional sheets, if necessary*)

NAME: _____

Employer Name and Address	Position/Brief Description of Duties	Start Date	End Date	Reason for Leaving

Attachment [D]**LIST RESIDENTIAL ADDRESSES FOR THE LAST 10 YRS**

Each sole proprietor, officer, director, partner, member, manager and each 10% or greater equity owner of applicant must fill out this form. (*Attach additional sheets, if necessary*)

NAME: _____

Residential Address	Start Date	End Date

Attachment [E]

**SALE OF CHECKS/MONEY TRANSMISSION
SURETY BOND**

Bond No. _____

KNOW ALL MEN BY THESE PRESENTS: That we,

(Principal-Licensee's Name including trade name or d/b/a)

(Principal's physical location) as Principal,

and _____
(Surety's Name)

(Surety's Address) ()
(Surety's Phone Number)

as surety, are firmly bound to the Office of Financial Institutions for the use of the state and of any person who may have a cause of action against the principal under "The Sale of Checks and Money Transmission Act," R.S. 6:1031, et seq., in the full sum of _____ dollars (\$_____) lawful currency of the United States of America, for the payment of which we bind ourselves, our successors and assignees, jointly and severally, renouncing all benefits of division or discussion.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that, whereas the above named principle has applied to the Commissioner of Financial Institutions of Louisiana for a license to conduct the sale of checks or money transmission as provided in "The Sale of Checks and Money Transmission Act," R.S. 6:1031, et seq., and shall pay to the State of Louisiana and to any person or persons any and all monies that may be due and owing to the Louisiana Office of Financial Institutions or to such person or persons from the Principal-Licensee.

This obligation may be cancelled by said Surety by giving thirty (30) days notice in writing of its intention so to do to the Office of Financial Institutions and the Surety shall be relieved of any further liability under this bond thirty (30) days after receipt of said notice by the Office of Financial Institutions. No cause of action shall lie against the Surety unless commenced within two years from the date the cause of action accrues against the principal.

Signed at _____, the _____ day of _____, 20____, in the presence of the
subscribing competent witnesses.

Principal

Surety

By: _____
(If a Corporation, Partnership or LLC)

By: _____

Print or type name of signer

Print or type name of signer

WITNESSES: _____

Phone Number of Surety Company

ATTACHMENT [F]

IRREVOCABLE POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENT, that the undersigned licensee, does hereby assign or transfer to the Commissioner of Financial institutions, State of Louisiana, and his successors in office, the securities described below, currently outstanding and registered in the name of the undersigned individual or company on the books of the following depository institution located in Louisiana:

(Name of Depository Institution & Branch Address)

The security/account thus transferred is described as follows (include security/account number):

(Account Owner)

The undersigned hereby irrevocably appoints and authorizes the Commissioner, and his successors in office, to transfer the above described security on the books of the institution named above, with power also to appoint and authorize one or more persons as a substitute or substitutes, hereby ratifying and confirming all that shall be lawfully done under authorization herein granted, it being expressly understood that the above appointment, assignment and transfer is for the sole purpose of effecting compliance with the requirements of LSA-R.S. 6:1037(e) as relates to deposit of securities by persons, partnerships, corporations and other legal entities licensed to sell check, money orders and instruments for the transmission of money in the State of Louisiana under R.S. 6:1031 et seq.). This instrument must not be released without first having received written consent from the Commissioner of Financial Institutions.

WITNESSES:

(Signature if individual applicant or print name of Corporation)

By _____
(Individual Signing for Corporation or Partnership)

Signed, at _____, Louisiana,

on this the _____ day of _____, 20 ____.

WITNESSES:

By: _____
(Signature and Title of Depository Representative)

(_____) _____
(Depository Phone Number)

ACKNOWLEDGMENT

(for corporations, limited liability companies, trusts and partnerships)

STATE OF _____

PARISH OR COUNTY OF _____

Personally appeared before me, _____, personally known, who after being duly sworn, stated that s/he is _____ of _____ and that for and on behalf of the applicant he executed and delivered the foregoing instrument(s) and that s/he was at the time of the execution thereof authorized so to do, as evidenced by the attached resolution (if a corporation or LLC) or trust document if a trust).

SWORN TO AND SUBSCRIBED BEFORE ME, NOTARY, this _____ **day of** _____, **20** ____.

(Notary Public)

AGENT FOR SERVICE OF PROCESS AND ACKNOWLEDGEMENT
(For Corporations, LLCs, and all Out-of-State Entities)

Louisiana Agent for Service of Legal Process:

- (a) Name of Agent: _____
- (b) Business Address: _____
- City: _____ State: _____ Zip Code: _____
- (c) Business telephone number: (_____) _____

I hereby acknowledge and accept the appointment of registered agent for and on behalf of

Name of Licensee

Signed by: _____
Registered Agent or Authorized Representative

Sworn to and subscribed before me this _____ day of _____, 20_____.

Notary Public

**Should the licensee/registrant change its Agent for Service of Process, a new
acknowledgement form reflecting such change is required to be submitted to this Office.**

**STATE OF LOUISIANA
OFFICE OF FINANCIAL INSTITUTIONS
BATON ROUGE, LOUISIANA**

MARCH 6, 2001

POLICY NO. ND-01-01

**RELEASE OF CASH DEPOSITS, SECURITIES, AND TRUST ACCOUNTS PLEDGED TO THE
COMMISSIONER**

PURPOSE:

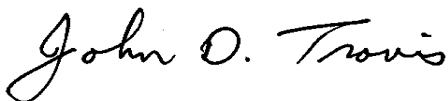
The purpose of this policy is to set forth the circumstances by which cash deposits, securities, and trust accounts pledged to the commissioner by licensees shall be released.

TO WHOM THIS POLICY APPLIES:

This policy applies to all persons who have pledged cash deposits, securities, or trust accounts to the commissioner in conjunction with licensure as Residential Mortgage Lenders, Collection Agencies, Check Cashers, Credit Repair Service Organizations, Loan Brokers, and Sellers of Checks

SPECIFICS:

Any cash deposits, securities, or trust accounts pledged to the commissioner by a person(s) in connection with licensure, shall be released after six months have lapsed since the person(s): surrendered their license, ceased operation, allowed their license to expire, or had their license revoked. In the sole discretion of the commissioner, this period may be extended until such time that the records of the licensee may be examined and he/she may be reasonably certain that claims against the deposit, security, or trust account are a remote possibility. Furthermore, in accordance with this Office's Record Retention Rule, the licensee shall keep and make available all records to verify compliance with applicable statutes and rules until such time as the deposit, security, or trust account is released.

A handwritten signature in cursive script that reads "John O. Travis".

John Travis, Commissioner
DJD

**STATE OF LOUISIANA
OFFICE OF FINANCIAL INSTITUTIONS
BATON ROUGE, LOUISIANA**

May 20, 2004

POLICY NO. SC 01-04

**Records Retention Schedule
Sale of Checks and Money Transmitters**

PURPOSE:

To provide a schedule of minimum records to be retained by persons subject to the Sale of Checks and Money Transmission Act ("SOC/MT"), LSA-R.S. 6:1031 et seq. The Office of Financial Institutions deems these records necessary to determine compliance with the SOC/MT and to protect the welfare of citizens of the state of Louisiana.

TO WHOM THIS POLICY APPLIES:

Those persons subject to the Louisiana Sale of Checks and Money Transmission Act that are money service businesses performing one or more of the following services in an amount greater than \$1,000.00 per day to any one person on any day in one or more transactions.

<u>PRODUCT OR SERVICE</u>	<u>CAPACITY OR TYPE OF</u>
Money Orders	Issuer or seller of money orders
Traveler's Checks	Issuer or seller of traveler's checks
Stored Value cards	Issuer or seller of stored value cards
Money Transmission	All transmitter of money- regardless of the dollar amount of transactions

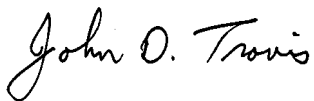
SPECIFICS:

All licensed sale of checks and money transmitters (unless noted as an exception) shall maintain and preserve such records as detailed below for a period of five years, or longer if required by the commissioner to resolve examination, investigation, or complaint issues. The records or supporting documentation may be kept or stored on computer, electronic media, or otherwise, provided the information can be accessed within a reasonable period of time. The Commissioner or his designee shall have the authority to copy relevant records to support his or her findings.

At a minimum, the licensee must maintain and preserve the following documents:

- A copy of and confirmation of proof of registration with the Internal Revenue Service, Detroit Computing Center, Department of Treasury by using the appropriate form for registration of money services businesses (except those issuers or sellers of stored value cards).
- A list of your agents, if any, as of January 1st of each year for the preceding 12-month period with, at a minimum, the following information:

1. Name of agent, including any trade names, assumed names, or d/b/a's (doing-business-as) names
 2. The address of the agent, including street address, city, state, and ZIP code
 3. Type of services provided by the agent
 4. Gross transaction amount: A listing by month of the preceding 12 months in which any agent's gross transactions exceeded \$100,000
 5. Name and address of any depository institution, at which the agent maintains a transaction account for any funds received for money services the agent provides
- With the exception of issuers or sellers of stored value, maintain copies of all Suspicious Activity Reports (SARS-MSB) filed and the original or business record equivalent of any supporting documentation for a period of five years from the date of the report. Supporting documentation must be identified as such, and attached to the copy of the report.
 - A copy of the prior and current versions of the licensee's anti-money laundering compliance program as required by Section 352 of the USA PATRIOT Act and implemented by Regulation 31 CFR 103.125, including the name of the designated compliance officer.
 - A detailed list of monetary instruments (money orders, traveler's checks) sold for cash in amounts from \$3,000 to \$10,000, inclusive, identifying the customers.
 - A copy of all currency transaction reports when transactions in currency involve more than \$10,000, in either cash-in or cash-out, conducted by, through, or to the licensee on any one day by or on behalf of the same person.
 - A log of money transfers of \$3,000 or more to the same customer in a day regardless of the method of payment.
 - Documentation describing your system for identifying reportable transactions.
 - General, operating, or other bank accounts held by the licensee, including but not limited to, bank deposit slips, check books, check stubs, check registers, canceled checks, a complete copy of the bank statements, and bank statement reconciliations.
 - Proof that checks outstanding for unreasonable periods of time are researched and reissued or reported as unclaimed property to the appropriate government agency, currently the Office of the State Treasurer
 - A list of unresolved disputes including the status of each.
 - A list of unresolved client complaints received by the agency including the status of each complaint.
 - Supporting documentation, including the initial licensing documentation and any licensure renewal documentation, an estimate of business volume and information regarding ownership or control.



RULE

Department of Economic Development Office of Financial Institutions

Title 10

FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

Part XV. Other Regulated Entities

Chapter 11. Money Transmitters

§1101. Examinations and Visitations; Fees and Charges

Each individual, partnership, association, or corporation that is licensed to sell checks or money orders in Louisiana shall pay the following fees and charges to the Office of Financial Institutions for examinations and visitations by the Office of Financial Institutions, whether conducted solely by the Office of Financial Institutions or jointly with the regulator of such activity in other jurisdictions and whether conducted in Louisiana or at the licensee's offices outside Louisiana:

1. \$30 per hour for each examiner who participates in the examination or visitation;
2. the actual cost of subsistence, lodging, and transportation for out-of-state examinations, not to exceed the amounts provided for in Division of Administration travel regulations in force at the time of such examination or visitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18:144 (February 1992).

§1103. Statement of Anticipated Costs and Proceeds

A. The fees to be imposed by the commissioner will generate approximately \$33,700, which will be offset by the cost of examination personnel of a like amount. Cost and expenditure figures are based on the projected number of hours to perform examinations and visitations of licensees and agents of sellers of checks or money orders.

B. The fees, charges, and expenses shall be paid by the examined licensee within 30 days after the Office of Financial Institutions mails its bill. Failure to pay within the allowed time shall be a basis for initiating proceedings to suspend the license, or the imposition of a penalty assessment of \$50 for each day the fees, charges, and expenses remain unpaid, or both.

AUTHORITY NOTE: Promulgated in accordance with R.S. 6:121(B)(1).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 18:144 (February 1992).

Louisiana Administrative Code September 1999

SALE OF CHECKS AND MONEY TRANSMISSION ACT

TITLE 6, CHAPTER 13

§ 1031. Citation

This Chapter may be cited as "The Sale of Checks and Money Transmission Act."

§ 1032. Definitions

For the purposes of this Chapter:

- (1) "Check" means any check, draft, money order, personal money order or other instrument for the transmission or payment of money.
- (2) "Commissioner" means the commissioner of financial institutions.
- (3) "Deliver" means to deliver a check to the first person who, in payment for same, makes or purports to make a remittance of or against the face amount thereof, whether or not the deliverer also charges a fee in addition to the face amount, and whether or not the deliverer signs the check.
- (4) "Licensee" means a person duly licensed by the commissioner of financial institutions pursuant to this Chapter.
- (5) "Money transmission" means to engage in the business of selling or issuing payment instruments, selling or issuing stored value, or receiving money or monetary value for transmission, including electronic transmission, to a location within or outside of the United States.
- (6) "Person" means any individual, partnership, association, joint stock association, trust or corporation, but does not include the United States government or the government of this state.
- (7) "Personal money order" means any instrument for the transmission or payment of money in relation to which the purchaser or remitter appoints or purports to appoint the seller thereof as his agent for the receipt, transmission or handling of money, whether such instrument is signed by the seller or by the purchaser or remitter or some other person.
- (8) "Sell" means to sell, to issue or to deliver a check.

§ 1033. License required

A. No person, except those specified in R.S. 6:1034, shall engage in the business of money transmission or selling checks as a service or for a fee or other consideration without having first obtained a license pursuant to this Chapter.

B. The license granted shall be for the period commencing on April fifteenth and ending on April fourteenth of the year following the year of initial licensure or renewal of a previously issued license, as the case may be. The license fee for the year of initial licensure shall not be prorated based on the number of months the license will be in effect.

C. The office of financial institutions shall deposit the license fee check within two business days after it is received, anything to the contrary in R.S. 49:308 or 950 et seq. notwithstanding, whether or not the application is accompanied by all supporting documents required by law to be furnished as a prerequisite to licensure. However, the act of depositing the license fee shall not be construed as the granting of a license if the commissioner determines that the applicant has not met the requirements of this Chapter.

§ 1034. Exemption from licensing

No license to transmit money or sell checks as aforesaid shall be required hereunder of any of the following:

- (1) Banks, building and loan associations, savings and loan associations, and credit unions organized under the laws of this state, or any state where deposits are required to be insured by an agency of the federal government or under the general banking laws of the United States; however, nothing herein shall be deemed to enlarge the power of the enumerated persons.
- (2) Agents of a licensee, as provided in R.S. 6:1041.
- (3) A governmental agency, instrumentality, or public entity organized by act of congress or by act of the legislature.

§ 1035. Qualifications

To qualify for a license hereunder, an applicant shall meet the following requirements:

- (1) If application is made for a new license, the applicant shall submit a business plan, which includes, at a minimum, anticipated volume for the calendar year, as well as the anticipated number of transmission or selling locations. The commissioner shall determine the required bond for each new licensee, based on the information provided by the applicant; however, in no event shall the bond be less than twenty-five thousand dollars.

(2) To qualify for a new license to transmit money or sell checks or for renewal of a previously issued license, an applicant shall also have a net worth of at least one hundred thousand dollars, computed according to generally accepted accounting principles.

(3) The financial responsibility, financial condition, business experience, character, and general fitness of the applicant shall be such as to reasonably warrant the commissioner to believe that the applicant's business will be conducted honestly, carefully, and efficiently. To the extent that the commissioner deems advisable, he may investigate and consider the qualifications of officers and directors of an applicant in determining whether the applicant qualifies.

§ 1036. Applications

Each application for a license to transmit money or sell checks shall be made under oath on a form supplied by the commissioner. The application shall state the full name and street address of:

- (1) The proprietor, if the applicant is an individual.
- (2) Every member, if the applicant is a partnership or association.
- (3) The corporation and each officer and director of a corporate applicant.

§ 1037. Accompanying fee; statement and bonds

A. Each application for license, including applications for renewal, to transmit money or sell checks shall be accompanied by:

(1) An investigation fee of three hundred dollars plus an additional fee of twenty-five dollars for each location in the state from which the applicant intends to transmit money or sell checks, up to a maximum of three thousand dollars, which shall not be subject to refund but which, if the license is granted, shall constitute the license fee for the first license year or part thereof.

(2) Financial statements certified to as correct by an owner, principal, officer, or director of the applicant for the preceding three calendar or fiscal years and the year in which the application is submitted.

(3) A surety bond by a bonding company or insurance company authorized to do business in Louisiana in the minimum amount of twenty-five thousand dollars, or a higher amount deemed appropriate by the commissioner, based on the applicant's business plan, for the initial year of licensure.

B. The bond required by licensees whose license is being renewed shall be one-half of the checks outstanding, or one percent of annual volume of money transmitted rounded to the nearest thousand, as shown on the annual report of the licensee. However, in no event shall the bond be less than twenty-five thousand dollars or exceed five hundred thousand dollars, except the commissioner may require an additional amount over the five hundred thousand dollars, up to a total maximum amount of one million dollars, after a hearing, based on the licensee's financial condition. The bond for the second and subsequent years of licensing shall be furnished within thirty days from the date the annual report is due.

C. The bond shall be in a form satisfactory to the commissioner and shall run to the office of financial institutions, for the use and benefit of the office of financial institutions and creditors of the licensee or agent for any liability incurred on any money transferred or check issued by the licensee or agent. Persons who have claims against the licensee or his agents may bring suit directly on the bond. The attorney general may bring suit on the bond on behalf of claimants, either in one action or successive actions. The surety shall have the right to cancel the bond upon giving thirty days notice, in writing, to the commissioner. The surety on the bond shall be relieved of liability for any breach of conditions occurring after the cancellation.

D. In lieu of such corporate surety bond or of any portion required by this Section, the applicant may deposit with the commissioner, or in escrow with a federally insured Louisiana depository institution, either state or federally chartered, as such applicant may designate and the commissioner may approve, cash or securities of not less than the amount of the required corporate surety bond, or any portion of it, based upon the principal amount or market value, whichever is lower, consisting of one or more of the following exclusively enumerated unencumbered items:

- (1) Cash.
- (2) Certificates of deposit.
- (3) Interest bearing stocks and bonds acceptable to the commissioner.
- (4) Notes, debentures, or other obligations of the United States or any agency or instrumentality thereof, guaranteed by either the United States, the state of Louisiana, a city, parish, town, village, school district, or other political subdivision of this state which has been authorized by the constitution, statute, or ordinance to levy and collect taxes.

E. The cash or securities authorized by Subsection D shall be placed in escrow in a federally insured Louisiana depository institution, either state or federally chartered, as provided for in Subsection D, to secure the same obligations as would the corporate surety bond. The licensee shall be entitled to receive all interest and dividends on the cash or securities placed in

escrow. In addition, the depositor shall have the right, subject to the approval of the commissioner, to substitute other securities of the kind or type enumerated in Subsection D, for those previously deposited.

F. The depositor shall be required to substitute other or additional cash or securities of the kind or type enumerated in Subsection D when required to do so by written order of the commissioner for good cause shown.

G. (1) In addition to the bonding requirements of this Section, the licensee shall at all times own and have on hand permissible investments in an amount equal to the aggregate face amount of all outstanding checks sold in the United States or amount of money held over twenty-four hours prior to transmission, for which the licensee is liable for payment.

(2) In this Subsection, "permissible investments" means:

(a) Cash.

(b) Notes, debentures, or other obligations of the United States or an agency or instrumentality thereof, guaranteed by either the United States, any state, any city, parish, county, town, village, school district, or other political subdivision of any state, which has been authorized by the constitution, statute, or ordinance to levy and collect taxes.

(c) Any other investments approved by the commissioner.

(3) To prevent unsafe and unsound practices with respect to the required permissible investments, the commissioner may adopt and enforce reasonable rules to implement this Subsection.

§ 1038. Investigation; granting of license

A. The commissioner shall provide a detailed form, which each applicant shall mail, by certified mail, to the commissioner. The commissioner shall, upon receiving the official, completed application which is accompanied by the fee and documents required by R.S. 6:1031 et seq., investigate to ascertain whether the applicant meets the qualifications established by R.S. 6:1031 et seq., for persons to engage in the business of money transmission or selling checks in this state.

B. If the commissioner determines that the applicant meets the requirements of this Chapter, he shall issue the applicant a license to engage in the business of money transmission or selling checks in this state.

§ 1039. Maintenance of bond

After a license is granted, the licensee shall maintain its bond in the amount prescribed by R.S. 6:1037. If the commissioner determines at any time that the bond is insecure or deficient in amount, he shall by written order require the filing of a new or supplemental bond; however, such determination and bond requirement shall not be unreasonable, arbitrary, or capricious. If the order is not complied with within thirty days following service by certified mail upon the licensee, the commissioner shall suspend the authority of the licensee to transmit money or sell checks in Louisiana and shall commence proceedings to revoke the license.

§ 1040. Annual renewal fee; delinquency charge

A. Each licensee shall pay to the commissioner, on or before April fifteenth of each year, a renewal license fee of three hundred dollars, plus an additional fee of twenty-five dollars for each licensed transmission or selling location in this state, however, the total renewal fee for any license shall not exceed three thousand dollars, regardless of the number of locations.

B. If the renewal fee is received after April fifteenth, a late penalty equal to one-half of the renewal fee, including the fee for each transmission or selling location, shall be paid as a prerequisite for renewal even though the three thousand dollar maximum is exceeded.

C. If payment is made by mail, proof of payment before the delinquency date may be established by sending the renewal fee by certified mail, return receipt requested. A postmark of no later than April fifteenth shall be conclusive proof that timely payment was made.

D. The office of financial institutions shall deposit the license fee check within two business days after it is received, anything to the contrary in R.S. 49:308 or 950 et seq. notwithstanding, whether or not the application is accompanied by all supporting documents required by law to be furnished as a prerequisite to renewal of the license. However, the act of depositing the license fee shall not be construed as granting of a renewal of the license previously issued if the commissioner determines that the applicant has not met the requirements of this Chapter.

§ 1041. Agents and subagents

A. A licensee may conduct his business at one or more locations within this state, as follows:

(1) The business may be conducted through or by means of such agents and subagents as the licensee may from time to time designate or appoint.

(2) No license under this Chapter shall be required of any agent or subagent of a licensee.

B. No licensee shall be required to obtain more than one license under this Chapter regardless of the number of locations within the state at which money is transmitted or checks are sold.

§ 1042. Liability of licensees

Each licensee shall be liable for the payment of all checks which he sells or money he is obligated to transmit, in whatever form and whether directly or through an agent, as the maker or drawer thereof according to the negotiable instrument laws of this state; and a licensee who sells a check or transmits money, whether directly or through an agent, upon which he is not designated as maker or drawer shall nevertheless have the same liabilities with respect thereto as if he had signed same as the drawer thereof.

§ 1042.1. [Blank]

§ 1043. Disclosure of responsibility

Every check sold by a licensee, directly or through an agent, shall bear the name of the licensee clearly imprinted thereon.

§ 1044. Visitation and examination; revocation of license

A. The commissioner either in person or through an employee appointed by him, shall visit and examine each licensee or agent on a recurring schedule or at any time whenever, in his judgment, an examination is necessary and expedient. The commissioner may accept an annual report and audit of the affairs of a licensee or agent under this Chapter if it is made by a commissioner of financial institutions or comparable officer of another state, the District of Columbia, or a territory of the United States.

B. The commissioner shall revoke or suspend a license on any ground on which he may refuse to grant a license or for a violation of any provisions of this Chapter.

§ 1045. Hearings

No license shall be denied or revoked except after a hearing thereon. The commissioner shall give the applicant or licensee at least twenty days' written notice of the time and place of such hearing. The notice shall be by registered or certified mail addressed to the principal place of business of such applicant or licensee. Any order of the commissioner denying or revoking such license shall state the grounds upon which it is based and shall not be effective until twenty days after written notice thereof has been sent by registered or certified mail to the applicant or licensee at such principal place of business.

§ 1046. Penalties

A. Any person who directly or through another violates or attempts to violate any provision of this Chapter shall be guilty of a misdemeanor, and shall be fined not less than two hundred and fifty dollars but not more than five hundred dollars, or imprisoned in the parish jail for not more than six months, or both. Each transaction in violation of this Chapter and each day that a violation continues shall be a separate offense.

B. A conviction or plea of guilty, or a finding of guilt after a plea of nolo contendere, shall automatically constitute a revocation of the primary license and all location licenses.

§ 1047. Reports

Each licensee shall file an annual report with the commissioner by March thirty-first for the previous year of money transmission or check selling operations. The report shall contain:

- (1) A complete disclosure of all business activity which it conducted during the previous year in this state.
- (2) A financial statement certified by an owner, principal, director, or officer of the licensee.
- (3) A list of each location in this state at which money was transmitted or checks were sold by the licensee and its agents during the preceding calendar year.

§ 1048. Trust imposed on sales or transmission proceeds

Agents of licensees shall hold in trust from the moment of receipt the proceeds of a sale or delivery of the licensees' checks or money collected for transmittal. An agent may not commingle the proceeds with his own property or funds, except to use the funds in the ordinary course of its business for the purpose of making change. If any agent of a licensee commingles any proceeds received from the sale of checks issued or money transmitted by the licensee with any other funds or property owned or controlled by the agent, all commingled proceeds and other property shall be considered held in trust in favor of the licensee in an amount equal to the amount of the proceeds due the licensee from the sale of checks or money transmitted

less the amount due the agent from the sale or transmission. In the event that a licensee's license is revoked by the commissioner pursuant to R.S. 6:1039, all proceeds then held in trust by agents of that licensee shall be deemed to have been assigned to the commissioner.

§ 1049. List of financial institutions

When a license is suspended and revoked, the licensee shall supply the commissioner with a list of the financial institutions where he has transacted such business as is governed by the provisions of this Chapter.

§ 1050. Retention of surety bond

The commissioner shall retain the surety bond required by this Chapter until the list required by R.S. 6:1049 has been supplied and thirty days have passed since the financial institution or institutions have been notified in accordance with R.S. 6:1051.

§ 1051. Notification of financial institutions; violations; penalties

A. When a license is suspended and revoked, the commissioner shall notify the financial institution or institutions of the former licensee that the person is no longer authorized to transmit money or sell checks under the provisions of this Chapter.

B. After such notification, no financial institution shall participate in a transaction with a former or suspended licensee in contravention of the provisions of this Chapter; however, a financial institution may accept deposits of funds into an account of a former or suspended licensee if such account does not have adequate funds to honor all outstanding checks as the term "check" is defined by R.S. 6:1032(1).

C. The commissioner may assess and collect a civil money penalty against a financial institution in an amount not exceeding two hundred and fifty dollars for each transaction in violation of the provisions of this Section.

D. Nothing in this Section shall prevent a financial institution from engaging in a transaction with a former licensee who applies for, receives, and retains a new license in accordance with the provisions of this Chapter.

§ 1052. Account; verification of license; cancellation; overdrafts

A. Before any financial institution opens an account for a seller of checks or person who transmits money, which is intended to cover demands made by receivers of checks or money transmitted, it shall require the licensee seeking to open the account to present the license required by R.S. 6:1033, provided that the financial institution has actual knowledge that the person opening the account intends to engage in the sale of checks or money transmission. After being presented the license and before opening such account, the financial institution shall, within seventy-two hours, verify with the commissioner that the license is valid.

B. If the licensee closes any such account, the financial institution shall, within seventy-two hours, notify the commissioner of such closure.

C. If the licensee incurs overdrafts of at least one thousand dollars for a period of five consecutive days, and there is no agreed line of credit with the financial institution to cover these overdrafts, the financial institution shall, within seventy-two hours, notify the commissioner of the amount of such overdrafts.

§ 1053. Significant developments; licensee's duty to report to commissioner

A. It shall be the duty of a licensee to report to the commissioner, by certified mail, the following significant developments within fifteen days of the occurrence:

- (1) Filing a petition under either Chapter 7 or Chapter 11 of the United States Bankruptcy Code.
- (2) The commencement of any license suspension or revocation proceeding, either administrative or judicial, by any state, the District of Columbia, or any United States territory in which the licensee has been issued a license to transmit money or sell checks.
- (3) The indictment of an individual licensee, a partner if the licensee is a partnership, association, or, if the licensee is a corporation, the indictment of an officer or director.
- (4) The conviction, guilty plea, or plea of nolo contendere, if the court adjudicates the nolo contendere pleader guilty, of an individual licensee, a partner if the licensee is a partnership, association, or, if the licensee is a corporation, the conviction, guilty plea, or adjudication of guilt of an officer or director.

B. Failure of the licensee to report any significant development enumerated in this Section shall constitute grounds for revocation of the license.